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Florida Cable Telecommunications Association

Steve Wilkerson, President

April 11, 1996

VIA OVERNIGHT MAIL

Mr. Bill Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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**RE: In the Matter of Federal-State Joint Board on Universal Service
CC Docket No. 96-45**

Dear Mr. Caton:

Enclosed for filing in the above-captioned docket are an original and four copies of Florida Cable Telecommunications Association, Inc.'s Comments. Copies have been served pursuant to the attached certificate of service.

Please acknowledge receipt and filing of the above by date stamping the duplicate copy of this letter and returning the same to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance in processing this filing.

Yours very truly,

Laura L. Wilson
Vice President, Regulatory Affairs &
Regulatory Counsel

LLW:baw

Enclosures

cc: Mr. Steven E. Wilkerson
Parties identified on Certificate of Service

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Federal-State Joint Board on
Universal Service

To: The Commission

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CC Docket No. 96-45

COMMENTS OF
THE FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.

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April 12, 1996

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SUMMARY

FCTA urges the Commission to adopt targeted support mechanisms for two primary categories of services, each having two separate sub-categories of intended beneficiaries: (1) low income consumers and rural, insular and high cost areas, and (2) additional services needed by ("eligible facilities.") FCTA submits that the primary goal should be ensuring access to core services for the first group of beneficiaries while simultaneously promoting competition. FCTA supports the provision of access to core services, Lifeline and Link-up programs to qualified low-income consumers. For insular, rural and high cost areas, FCTA recommends a cautious approach based upon its experience in Florida. Price regulated incumbents should guarantee the continued provision of core services throughout their territories without additional subsidy support. They should only receive assistance upon a petition, an identification of areas where assistance is required to sustain universal service, and a demonstration of the need for assistance based on reliable and verifiable data. This ensures that any contributions are equitable and non-discriminatory without creating unnecessary barriers to competition.

For services to schools, libraries and rural health care providers, the Commission should implement a targeted mechanism that encourages vigorous competition to eligible facilities. A bid plan has been adopted by the Florida Legislature to meet the telecommunications needs of a similar set of eligible facilities while encouraging competition. The plan includes the following components: (1) a determination of eligible facilities; (2) a needs assessment for the eligible facilities; (3) a technology-neutral applications plan; (4) a competitive bid process for needed services and applications; and (5) a safety net provision where no competitive bids are received for an eligible facility. This approach has numerous benefits as discussed herein. FCTA urges the Commission to focus on ensuring "access to" necessary services and to

refrain from mandating what particular technology should be deployed. This will promote technological innovation. It will also guard against the deployment of governmentally mandated technology that may well be excessively costly or obsolete in the near future.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
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Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
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To: The Commission)	

**COMMENTS OF
THE FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.**

The Florida Cable Telecommunications Association, Inc. ("FCTA"), by and through its undersigned attorney, hereby submits its Comments in response to the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking and Order Establishing Joint Board¹ in the above-captioned proceeding. FCTA is the principle trade association of the cable telecommunications industry in the State of Florida and represents cable television operators presently serving approximately seventy-two percent (72%) of Florida's television households.

I. INTRODUCTION

This proceeding was initiated by the Commission to determine universal service issues pursuant to the Telecommunications Act of 1996.² The FCTA and its members supported

¹In the Matter of Amendment of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Notice of Proposed Rulemaking and Order Establishing Joint Board, FCC 96-93, released March 8, 1996 ("NPRM").

²Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) ("1996 Act").

passage of the 1996 Act and its goal to create a competitive telecommunications market characterized by consumer choice among a wide array of services and providers. The FCTA previously supported the passage of state telecommunications reform in Florida during the 1995 legislative session which similarly aims at the promotion and establishment of a competitive telecommunications market.³ FCTA supports these initiatives because its members are positioned to be facilities-based competitors of incumbent LEC ("ILEC") monopolies. Cable systems in Florida pass over 95 percent of homes with coaxial cables having capacity to carry up to 900 times as much information as the ILECs' twisted pair. Cable companies have demonstrated their leadership in the use of fiber optic and digital compression technology. The cable telecommunications industry's high-capacity systems will ultimately deliver virtually every type of communications conceivable, offering consumers competitive facilities-based choices for voice, video and data services. Accordingly, FCTA and its members have a substantial interest in the establishment of fair terms for telecommunications competition.

The Congressional mandate for universal service initiatives demonstrates that the interests of consumers, especially those with low incomes and those living in high cost, rural, and insular areas, are paramount while transitioning from monopoly provision of telecommunications services to competition. The FCTA asserts that "specific, predictable and sufficient" universal service mechanisms that are targeted and conceived from the "end user's perspective" can preserve the widespread availability of basic telecommunications services while allowing an orderly transition to competition.

³Chapter 364, Florida Statutes (1995).

The FCTA fully supports the use of targeted universal service mechanisms determined to be necessary to protect the public while competition emerges. What it fears is the establishment of a universal service mechanism that is so costly that it represents a substantial and unnecessary barrier to entry.

ILECs have traditionally argued in Florida that competition will erode universal service by reducing revenues from commercial and enhanced services which, they allege, provide subsidies to support below-cost basic service. Now that competition has become the goal of public policy, they can be expected to seek universal service mechanisms which “specifically, predictably and sufficiently” insulate them from any competitive market penetration by supplying only ILECs with support from new entrants in the name of universal service.

If universal service mechanisms are implemented and designed more to maintain ILECs’ revenue during the transition to competition than to protect targeted consumers, competition will be substantially impeded by making the costs of entry prohibitive. Such “corporate welfare” for ILECs would be doubly ironic since the 1996 Act and numerous state laws allow ILECs significant price flexibility and entry into vast new lucrative markets providing the opportunity for substantially increased revenues and earnings. In fact, it is likely that the ILECs’ ability to provide universal service will actually be enhanced by competition through stimulating the development of new products and services yielding higher revenues and earnings. That is why the ILECs were such supporters of telecommunications reform laws.

FCTA agrees with the Commission’s conclusion that the 1996 Act provides support mechanisms for two primary categories of services, each having two separate sub-categories of intended beneficiaries. FCTA’s comments are targeted toward those main intended beneficiaries: (1) low income consumers and rural, insular and high cost areas, and (2) advanced services needed by schools, libraries and rural health care providers. FCTA submits

that the primary goal should be ensuring that access to the “core” set of basic telecommunications services is sustained for the first group of beneficiaries while simultaneously promoting the emergence of a competitive marketplace. FCTA strongly recommends a separate “bid-type” process for eligible schools, libraries and rural health care providers, based in part on the model established in Florida. Accordingly, properly targeted universal service mechanisms will benefit consumers if they: (1) ensure access to a “core” set of basic services to low income consumers and rural, insular and high costs areas; (2) ensure access to necessary additional services, including advanced services, for eligible facilities; (3) do not create unnecessary obstacles as competition emerges; and (4) promote a wider array of consumer choice in the future.

The Commission has a difficult balance to achieve in implementing any universal service mechanisms. But the task can be accomplished in a manner that ensures fairness to ILECs and competitors, while also protecting consumers from any real (rather than imagined) unintended negative consequences. FCTA respectfully submits that the balance is found in quantifying the need for subsidy support mechanisms to intended beneficiaries and permitting the competitive marketplace to work, to the greatest possible extent, before imposing government initiatives. These concepts are discussed in greater detail below.

II. GOALS AND PRINCIPLES

The 1996 Act provides universal service support mechanisms to ensure access to two primary categories of services, each of which has two separate subcategories of intended beneficiaries: (1) a “core” group of services, the provision of which should be supported for consumers with low incomes or in rural, insular and high cost areas; and (2) additional services, including advanced telecommunications and information services, for providers of

health care or certain educational services, as described in Section 254(b)(6) and 254(h). NPRM at paragraph 11.

FCTA agrees that the “first responsibility is to identify what “core” group of services should be supported by Federal universal support mechanisms, to enable the first group of beneficiaries to purchase those services at just, reasonable and affordable rates.” Id. At paragraph 9 the Commission seeks comment on how to evaluate the four statutory criteria of Section 254(c)(1) concerning what telecommunications services should be supported by universal service mechanisms. FCTA supports a narrow interpretation of Section 254(c)(1). Section 254(c)(1) plainly uses the mandatory terms “shall consider.” The further use of the conjunctive “and” at the end of the list of factors should be interpreted to mean that each and all of the criteria must be satisfied in order for a service to be included in the list of supported services. At a minimum, all of the criteria must be considered when determining whether access to a service should be guaranteed.

The NPRM also asks for comment on the “core” services designated for support in paragraph 16. FCTA concurs with the initial set of services listed there. These are: (1) voice grade access to the public switched network with the ability to place and receive calls; (2) touchtone; (3) single party service; (4) access to emergency services (911); and (5) access to operator services. The NPRM seeks comment on what performance standards should be set for voice grade service. NPRM at paragraph 18. The states are probably in the best position to set and enforce such standards as may be needed to ensure that consumers continue to receive service in the manner and quality they are accustomed to receiving. FCTA would further point out that it is only necessary to require “access to” emergency services. In many areas 911 and enhanced 911 service is provisioned by an ILEC-collected fee that is remitted directly to the counties. Accordingly, the method for enhanced 911 provisioning is also a

matter appropriately left to the states. No other services, at this time, should be added to the list of “core” services contained in paragraph 16 as it does not appear that any other services meet the criteria of Section 254(c)(1).

In keeping with the goal of promoting market-based solutions, the Commission should remember that it is establishing the framework today in which new services will emerge. FCTA believes that consumer need or demand for access to a service should drive the Commission’s analysis of whether the list of “core” services should be expanded as technology evolves. A service should not be added to the list unless it has, through the operation of market choices, been subscribed to by a substantial majority of residential customers. This factor is critical to ensuring universal service is an evolving concept embracing new services as consumer demand materializes but does not evolve into a mechanism that constitutes a financial or technical barrier to competition.

III. SERVICES TO LOW INCOME CONSUMERS AND CONSUMERS IN RURAL, INSULAR AND HIGH COST AREAS

FCTA prefers targeted support mechanisms as these will achieve the goals of universal service more efficiently than the continued application of broad-based support policies. Targeted programs serve defined classes of consumers (e.g., low income consumers or consumers in areas where unique circumstances create increased costs - such as low density or remote locations). FCTA supports an effort to target universal service mechanisms to consumers only where a demonstrable need for funding exists. This will protect consumers without creating unnecessary barriers to the development of consumer choice.

A. Support for Low-Income Consumers.

First and foremost, FCTA supports the provision of “core” services to all qualifying low income consumers. Low income funding mechanisms should be considered

separately from any support mechanisms for insular, rural and high cost areas. Qualified low income consumers should receive support for the same “core” set of basic services ensured to consumers in rural, insular and high cost areas. The appropriate services at this time are those four identified above on page 5 and at paragraph 16 of the NPRM. FCTA endorses such support to the extent that there is demonstrated need to expand beyond current targeted Lifeline and Link-up programs.

B. Support for Rural, Insular and High Cost Areas.

Beyond support for qualified low income consumers, targeted universal service mechanisms may be needed for certain rural, insular and high cost areas. Where a demonstrable and verifiable need exists, funding should be made available in a competitively neutral manner. However, it should not be assumed at the outset that funding is immediately needed. For the reasons explained below, FCTA urges the Commission to take a cautious approach with respect to this subcategory of beneficiaries.

The NPRM seeks general comment on whether the 1996 Act requires that all regions of the country must have access to all telecommunications and information services, and if so, how this can best be effectuated in a “pro-competitive, deregulatory environment.” NPRM at paragraph 14. Full competition will not and cannot be expected to occur overnight in every area of the United States. There are far too many technical, economic and administrative issues that must first be resolved such as the terms of local interconnection, network interoperability, and number portability. These issues present significant barriers to entry. Therefore, great attention must be given now to guarantee that the basic elements necessary to rapidly expand competition are available and implemented to assuring that new entrants can attract capital to enter the local exchange market on a ubiquitous basis.

In this context, the Commission should first act to promote the development of intense competition which creates incentives for new entrants to construct facilities in all regions of the country. Viewed from the end user's perspective, robust competition is the best way to promote the widespread availability of services, affordable prices, service quality and innovative new services. Given the combined revenues available from each household for voice, data, and video services of all kinds, powerful marketplace incentives exist for new entrants to build to remote areas provided that the regulatory environment is generally supportive of competition. Only when it is clear that competition is vibrant in some areas and precluded from others, because of demonstrable cost barriers, should universal service mechanisms be implemented. To do otherwise might have the perverse effect of squelching competition everywhere because the regulatory costs make entry uneconomic.

During the transition to competition there may be certain rural, insular and high cost areas in which below-cost access to "core" services is in need of subsidy support. FCTA simply urges the Commission to carefully evaluate whether immediate subsidy support is necessary to preserve and advance universal service. This requires an identification of the "core" or basic services, such as those listed on page 5 above, that are to be guaranteed to an area. Once these services are identified, the Commission should evaluate whether immediate subsidy is required to sustain access to the "core" services. A recent investigation into intrastate universal service funding in Florida is instructive on this point.

Similar to the 1996 Act, Florida law requires the Florida Public Service Commission ("FPSC") to establish an interim universal service mechanism (for a maximum of four (4) years) while the Legislature researches and determines what, if any, permanent universal service mechanism is required. The requirement for the mechanism is found in Section 364.025(2), Florida Statutes (1995), which provides:

(2) The Legislature finds that each telecommunications company should contribute its fair share to the support of universal service objectives and carrier-of-last-resort obligations. For a transitional period not to exceed January 1, 2000, an interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations shall be established by the Commission, pending the implementation of a permanent mechanism. The interim mechanism shall be implemented by no later than January 1, 1996, and shall be applied in a manner that ensures that each alternative local exchange telecommunications company contributes its fair share to the support of universal service and carrier-of-last-resort obligations. The interim mechanism applied to each alternative local exchange telecommunications company shall reflect a fair share of the local exchange telecommunications company's recovery of investments made in fulfilling its carrier-of-last-resort obligations, and the maintenance of universal service objectives. The Commission shall ensure that the interim mechanism does not impede the development of residential consumer choice or create an unreasonable barrier to competition. In reaching its determination, the commission shall not inquire into or consider any factor that is inconsistent with s. 364.051(c). The costs and expenses of any government program or project required in part II of this chapter shall not be recovered under this section.

See Attachment A at 3-4. The FPSC established the interim universal service mechanism by Order No. PSC-95-1592-FOF-TP issued December 27, 1995 in Docket No. 950696-TP. See Attachment B.

The Florida mechanism specifically requires the ILECs to maintain universal service throughout their territories and institutes a petition process. Attachment B at 23. Over the next four (4) years, large ILECs who petition the FPSC and demonstrate the need for universal service assistance can receive funding on an expedited basis. The petitioning ILEC must demonstrate that competitive entry has eroded its ability to sustain universal service and specifically quantify the alleged shortfall due to competitive entry. Most importantly, the FPSC placed the burden squarely on the ILECs to demonstrate, based on incremental cost data, the appropriateness of the amount requested and the reasonableness of the proposed method to

recover the amount. *Id.* at 28-29. Significantly, this four year universal service petition mechanism was not challenged by the large ILECs of Florida: BellSouth Telecommunications, Inc. ("BellSouth"), GTE Florida, Inc. ("GTEFL") or Sprint-United Telephone Company of Florida and Sprint-Central Telephone Company of Florida ("Sprint-United/Centel").⁴

This example, at the very least, suggests that a cautious approach is workable and in order. As the FPSC found in Docket No. 950696-TP, at the onset of competition, there is incomplete and inadequate information on when and where competition will emerge or the magnitude of its impact on the ILECs' ability to sustain their universal service/carrier of last resort obligations. *Id.* at 23. It is unclear whether competition will have an immediate or overwhelming impact, or any impact whatsoever, on the ILECs' ability to sustain universal service despite their allegations. *Id.* at 21. Similar clarification is needed on the federal level to ensure that a mechanism is sufficient without unnecessarily burdening new entrants to the detriment of emerging consumer choice.

Given the uncertainty at this stage in the emergence of competition, the burden should be placed on ILECs to demonstrate the need for immediate federal funding. This is especially true for price regulated LECs. At the federal level, Tier 1 ILECs have been subject to "price cap" incentive regulation since 1991.⁵ Many states have also permitted ILEC price flexibility, at the ILECs' insistence. In Florida, ILECs lobbied heavily for and obtained the ability to elect immediate price flexibility on January 1, 1996 - day one of local exchange competition. BellSouth, GTEFL, and Sprint-United/Centel have all elected and obtained price regulation.

⁴The Order was only challenged by one small ILEC, Indiantown Telephone Company, which was not a separate party to the original proceeding and, arguably, lacks standing to seek reconsideration. Indiantown's Request for Reconsideration is pending.

⁵In the Matter of Policy and Rules for Dominant Carriers, FCC Docket No. 87-313, Second Report and Order, October 4, 1990.

That means that there is no upward limit on their intrastate Florida earnings. See Attachment A at 5-9, ss. 364.051 and 364.163, Fla. Stat. (1995). In addition, the 1996 Act grants these ILECs opportunities to explore new lines of business and to enter new service territories. They have argued for and won new opportunities to pursue significant new revenue streams and growth potential on the federal and state levels.

The legitimacy of placing the burden of proof on the ILEC is highlighted by the extremely mixed signals the large price-regulated ILECs have sent the FPSC concerning the need for immediate intrastate funding. Sprint-United/Centel, which allegedly serves numerous high cost exchanges in Florida, argued in Docket No. 950696-TP that immediate funding was not required since competitive inroads will not be so significant in eighteen (18) months after the start of competition to warrant immediate funding. Order No. PSC-95-1592-FOF-TP at 23.

In contrast, GTEFL calculated that \$293 million a year in contribution is needed to sustain universal service in its territory. GTEFL proposed an immediate contribution from new entrants to recover only a portion of the support lost from an erosion of market share: the remainder could continue to be recovered through various revenue sources, such as yellow page revenues, on an interim four year basis. Id. at 20. BellSouth also argued that it was entitled to receive immediate funding totalling \$647 million per year (less its own contribution of \$253 million) to replace embedded past and forecasted future universal service contribution. However, BellSouth subsequently entered into a comprehensive Stipulation and Agreement with FCTA which, among other things, requires BellSouth to guarantee universal service in its territory without intrastate contributions from new entrants for two (2) years. See Attachment C at 23.

It should be no surprise that the FPSC rejected BellSouth's and GTEFL's requests for immediate intrastate funding in Docket No. 950696-TP. BellSouth and GTEFL had

inappropriately based their calculations on the amount of revenues (or contribution) that are currently available to support universal service, rather than on the amount of subsidy support actually required to sustain universal service. *Id.* at 25. The FPSC concluded that the amount of implicit support generated from the ILECs' rate structures is not necessarily the same as the amount of subsidy support required to sustain universal service, and that it is likely that a significant disparity exists between these. *Id.* at 23. Until the amount of subsidy support required is demonstrated and quantified, there can be no determination that any funding amount is necessary or sufficient to sustain universal service. Likewise, the Commission will not be able to determine with any level of certainty that all providers are making an equitable and non-discriminatory contribution pursuant to Section 254(b)(4).

The FCTA urges caution based upon its experience. Under no circumstances should ILECs be permitted, on top of the state and federal freedoms and opportunities they have sought and achieved, to also elicit "entry fees" from competitors in the name of universal service. The Commission and states should instead evaluate together the total effect of the 1996 Act and state regulation on ILECs when determining whether ILECs require subsidy support for identified insular, rural and high cost areas. It should not be automatically assumed that subsidy support is necessary. The determination should be based on reliable and verifiable information when a petition for assistance is filed - not on inevitable and overstated ILEC forecasts of disaster with the advent of competition. At this time, no one knows nor can anyone quantify the impact of local competition, price regulation, the 1996 Act and new state laws on the ILECs' ability to sustain universal service.

For these reasons, FCTA recommends that the Commission, in cooperation with the states, adopt a mechanism for rural, insular and high cost areas that consists of: (1) requiring price-regulated ILECs to guarantee the continued provision of "core" services throughout their

territories; and (2) establishing a petition process whereby any such ILEC requiring funding would have the burden of, first, identifying rural, insular and high cost areas where subsidy support is needed to maintain universal service and, second, demonstrating the need for assistance to the identified areas based on reliable and verifiable data which is open to inspection by competitors. Only upon this investigation any quantification can equitable and non-discriminatory contributions be calculated. Any contributions should be made by all providers in a competitively neutral manner based upon total telecommunications revenues net of payments to intermediaries. This approach will protect consumers by guaranteeing continued access to "core" services in rural, insular and high cost areas without needlessly jeopardizing the emergence of competition into all regions of the country.

IV. SERVICES TO SCHOOLS, LIBRARIES, AND RURAL HEALTH CARE PROVIDERS

The FCTA supports the provision of access to "core" and additional needed telecommunications services to eligible "elementary and secondary schools and classrooms, rural health care providers, and libraries." The Florida cable telecommunications industry has supported the provision of advanced communications services to schools and classrooms for many years by working with educators to provide free or reduced cost communications services. A majority of Florida classrooms are currently connected and receiving basic and/or enhanced cable communications services today. A partial listing of the industry's initiatives in this State alone is included in Attachment C at 6-8. It is the local cable telecommunications company that has the broadband delivery system capable of meeting the data speed requirements of various distance learning applications. Cable telecommunications companies nationwide have backbone and broadband distribution plant passing over 95% of homes. To prepare for local exchange competition, the cable telecommunications industry is rapidly

upgrading local operations to include digital phone switches, data hubs/routers, multiplexers and carrier agreements to be full-service communications providers.

FCTA believes that there is no better way to meet the needs of the nation's schools, classrooms, libraries and health care providers for access to telecommunications services than to provide marketplace stimuli. The Commission should implement universal service mechanisms that encourage vigorous competition to eligible facilities. A "bid-type" process has been adopted by the Florida Legislature to meet the needs of a similar set of eligible facilities on the state level and to promote widespread access to advanced telecommunications services.

The NPRM requests comment on how state and federal methodologies can be harmonized to meet the goals of the 1996 Act. NPRM at paragraph 83. The FCTA recommends that the Commission coordinate with the states to implement a plan for qualified schools, classrooms, libraries and rural health care providers that contains, at minimum, the following components: (1) a determination of eligible facilities; (2) a needs assessment for the eligible facilities; (3) a technology-neutral applications plan; (4) a competitive bid process for needed services and applications; and (5) a safety net provision where no competitive bids are received for an eligible facility. This is consistent with the plan adopted by the Florida Legislature. See Attachment A at 11-15, Title II, Chapter 364, Florida Statutes (1995).

Under this proposal there is, first, a determination of what entities are eligible for support. The FCTA concurs with the Commission's determination of eligible schools, libraries and rural health care providers as the 1996 Act defines eligible facilities. With respect to a determination of "rural" areas, FCTA simply urges consistency with the definitions adopted in response to other sections of the 1996 Act. Adoption of the HRSA classification system mentioned at paragraph 96 of the NPRM may be appropriate.

Having identified the eligible facilities, a comprehensive assessment should be conducted, in cooperation with the states, for each eligible facility. Pursuant to Florida law, for example, the needs assessment is conducted by the Florida Distance Learning Network ("FDLN") Board of Directors. The assessment is a joint effort of the public and private sectors. The FDLN Board comprises members from the State's legislative, educational, and health care communities in addition to the State Librarian and members of the cable and telecommunications industries. The statewide needs assessment process is currently underway in Florida. It coordinates the use of existing State resources and technology currently in place while also identifying what specific additional service applications are required. An extremely preliminary needs assessment has been made. The report includes an evaluation of the interoperability of various technologies that are needed for the delivery of a wide range of telecommunications services (from "core" services to high speed interactive video applications). A partial list of service applications that the Florida cable telecommunications industry is capable of providing is found on Attachment C at 9.

Next, upon refinement of the needs assessment, a technology plan should be developed and updated periodically. In Florida, the technology plan will consist of a matrix containing a list of desired service applications, corresponding bandwidth requirements needed to provide the applications, the estimated costs of the applications, and a listing of 3-4 options that an eligible facility could pursue to receive the needed service application. The listing of various options ensures access to desired services in a technology-neutral manner. No one particular technology, such as costly ISDN technology that may soon be obsolete, is favored to the detriment of the public interest. Options may periodically be updated. This allows for migration to new technologies as they evolve and the establishment of network standards for interoperability of networks.

The next major step is a competitive bid process. In Florida, bidding commences on July 1, 1997. Thereafter, eligible facilities have an eighteen (18) month window to submit requests for bids. Technology-needs requests are reviewed by the Florida Department of Management Services (DMS) for consistency with the standards of the FDLN Board technology plan. Then the requests are let out to bid. Any entity may respond. If infrastructure must be built up to an eligible facility, it must be provided at no cost for up to \$20,000 per eligible facility. In those instances where a competitive bid is not received, the FPSC-designated carrier of last resort for the geographic area provides access to the required services at prices below commercially available rates for comparable services and less than the statewide average rates of such services.

FCTA believes that the Florida plan has numerous benefits that should be considered by the Commission.

First, the NPRM seeks comment on how to determine “bona fide” requests. NPRM at paragraphs 85 and 103. The process described above encourages the full participation of eligible institutions in the needs assessment process from the outset. Moreover, a comprehensive needs assessment enables the Commission to familiarize itself with what applications are currently provided today, the costs, and what additional applications are required. A bid-type process also assists in ensuring that eligible facilities make requests that are “bona fide” in that the requests are checked for consistency with the technology plan.

The NPRM seeks comment on what services and functionalities should be supported. NPRM at paragraphs 80 and 93-94. Beyond “core” services, the needs assessment process assists in the present and ongoing determination of what additional or advanced services are required. FCTA urges the Commission not to define or mandate any particular service applications beyond “core” services, at this time, before a needs assessment. The

Commission should get a better picture of infrastructure needs first. Moreover, the Commission should focus on ensuring “access to” services and refrain from mandating which particular technology should be deployed to deliver such access - that is, adopt a result-oriented approach. For example, if access to the Internet is the goal, the Commission should not mandate ISDN or ATM technology but should, instead, investigate and identify all options capable of delivering Internet access. This ensures that technological innovation is not stifled and that the Commission is not mandating a costly technology that may well be obsolete technology in the near future. This process also allows for consideration of the capabilities of wireless and other technologies as referenced in the NPRM at paragraph 81.

The NPRM requests comment on the establishment of the interstate discount for schools and libraries. NPRM at paragraphs 82-83. Consistent with the objectives of Florida law, FCTA recommends a competitive bidding process to ensure the lowest possible rate. Each provider serving a particular area should be permitted to bid to provide access to the specific package of service applications identified by the Commission and/or required by the purchasing entity. Bid specifications would initially require some form of discount off the prevailing tariffed business rate at the high end. The lowest qualified bidder would provide the services.

The NPRM similarly seeks comment on a methodology for determining “reasonably comparable” rates for rural health care providers. NPRM at paragraph 100. The competitive bid process described above is capable of achieving the goal that the rates for rural health care providers are reasonably comparable to rates charged by the same or other carriers serving health care providers in the nearby urban area(s). This can be one of the bid specifications and a comparison can be made based on publicly available tariff information or other appropriate data. “Reasonable comparability” could be based on an established price ceiling relative to

the rates charged for similar services in urban areas. For example, bid specifications could be set at a high end of no more than 10% higher than in urban areas. The lowest qualified bidder would provide access to the required services.

Finally, in the absence of a bidder, the states will most likely be in the best position to determine the level at which service applications should be discounted and what eligible universal service provider(s) in a geographic area should provide what an eligible facility needs.

V. CONCLUSION

FCTA supports the use of targeted universal service mechanisms where necessary to sustain universal service to low income consumers and insular, rural and high cost areas. The initial list of services to be made universally available that appears in paragraph 16 of the NPRM is appropriate. FCTA supports the continuation of current Lifeline and Link-up programs for qualified low income consumers and any additional support for which there is a demonstrated need applying the principles outlined in these comments. In evaluating the efficacy of any mechanisms, the Commission should approach the issue from the “end user’s perspective” - as a means of preserving and advancing universal service, rather than as a means of protecting ILECs from competition. FCTA urges a cautious approach in which the need for subsidy support is determined and quantified based on reliable and verifiable data. Only then can the Commission be sure it is not constructing unnecessary barriers to competition. This will also provide assurance that any telecommunications provider’s contribution is equitable and non-discriminatory.

Beyond “core” services, FCTA supports the provision of access to additional or advanced services that meet the specific needs of eligible schools, classrooms and rural health care providers. The competitive marketplace can and should be relied upon to the greatest

possible extent before imposing governmental mandates in this area. A bid process is one method of accomplishing this, harnessing the benefits of competition to meet legitimate universal service goals. Most importantly, the Commission should not mandate a particular technology to meet the defined needs of eligible facilities. Instead, a results-oriented approach should be taken to encourage technological innovation and prevent deployment of costly, soon-outdated technology.

What is needed are mechanisms that protect the public while also promoting the development of robust competition into as many areas as possible. Mechanisms that may be unnecessary or so costly that they represent substantial barriers to entry must be avoided. FCTA submits that the recommendations above will achieve balance by ensuring fairness to all providers while protecting consumers during the transition to competition.

For the above-stated reasons, FCTA requests the adoption of the proposals contained herein.

Respectfully submitted,



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April 12, 1996

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Comments has been furnished by United States Mail on this 11th day of April, 1996 to the persons listed on the attached service list.



Laura L. Wilson